UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOHAMED HABIB, ET AL.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action
	)	No. 78-0286
	)	
RAYTHEON COMPANY, ET AL.	)	
	)	
Defendants.	)	

Filed: June 9, 1981

MEMORANDUM-ORDER

Before the Court is plaintiffs' motion under Fed. R. Civ. P. 60(b)(1), (3), and (6), for relief from judgment and to the same. Plaintiff's appear to present essentially two grounds for relief: noncompliance with the terms of federal rule 41 and promises and threats made to induce plaintiffs to settle the case, which were not revealed to the Court.

This case was settled and dismissed with prejudice by the stipulation of counsel for both parties in open Court, in the presence and with the consent of plaintiff Mohamed Habib. The transcript of the Court proceedings of the afternoon of Wednesday, October 15, 1980 states:

> (Whereupon, at 1:25 o'clock P.M. hearing in the above-entitled matter in Chambers concluded and the following proceedings were had at 1:30 o'clock P.M. in court:)
>
> MR. PLESSER: Your Honor, counsel would like to make several statements, stipulations for the record. First, that counsel will stipulate dismissal of this action with prejudice with all parties bearing their own costs.
>
> MR. BEST: We do so stipulate.
>
> THE COURT: Very well.
>
> MR PLESSER: Second, both counsel stipulate that the testimony of Mr. Mohamed Habib taken by this Court this morning will be held under seal.
>
> MR. BEST: We would so request the Court.
>
> THE COURT: All right. That request is granted.

* * *

MR PLESSER: We would also like to keep a complete transcript of these proceedings along with that file.

THE COURT: Do you want the notes transcribed.

MR PLESSER: Yes, Your Honor.

THE COURT: All right.

MR PLESSER: In addition, the affidavit received by Your Honor this morning would be part of the file in this case.

THE COURT: Part of the file in the case.

MR PLESSER: We would request that Mr. Altman's covering letter and the affidavit of Prince Abdullah Al-Faisal Al-Saud be made a part of the record in this matter.

THE COURT: All right. It will be done.

Mr. KIEVE: Your Honor, I would like the record to reflect throughout this period of time in which counsel have been stipulating the Plaintiff, Mr. Mohamed Habib has been present in the courtroom.

I would also like the record to reflect that Mohamed Habib answer affirmatively to the following statement that he understands there are no agreements, understandings, promises or representations that have been made to him.

The only agreement between the parties is as set forth by Mr. Plesser and stipulated to by Mr. Best.

I would like an affirmative response from Mr. Habib in his capacity as president and sole stockholder of Mundus, Inc., as well as in his individual capacity as the Plaintiff in this suit.

THE COURT: Mr. Plesser, has Mr. Habib been told about this?

MOHAMED HABIB: Yes, Your Honor. That stiputlation as I heard here is our only stipulation as I understand it.

THE COURT: Mr. Plesser, has Mr. Habib been told about this?

MOHAMED HABIB: Yes, Your Honor. That stipulation as I heard here is our only stipulation as I understand it.

THE COURT: Counsel's question is: Do you understand that this case is being dismissed with prejudice?

MOHAMED HABIB: Yes, sir.

THE COURT: That is with your consent?

MOHAMED HABIB: Yes, sir.

THE COURT: All right.

* * *

The record could not be clearer that the dismissal with prejudice of plaintiffs' case upon the terms recited in open Court was with the personal knowledge, understanding, and consent of plaintiff Mohamed Habib. Habib so stated, and personally represented that the recited terms of the stipulation were the only ones existing. Under

these circumstances, the Court finds that the requirements of rule 41 were complied with and that the plaintiff has failed to present any reason for the Court to set aside the stipulation of dismissal with prejudice. Accordingly, it is by the Court this 9th day of June, 1981,

ORDERED that plaintiffs' motion for relief from judgment be, and hereby is, denied; and it is further

ORDERED that defendants' motion for an extension of time be, and hereby is, denied.

/s/Oliver Gasch

Judge

NOT TO BE PUBLISHED - SEE LOCAL RULE 8 (f)

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 81-1728 September Term, 1981

Mohamed Habib and
Middle East Service, Appellants

Civil Action No. 78-00286

v.

Raytheon Company and
Raytheon Service Company

Filed: June 15, 1982

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Before: ROBINSON, Chief Judge; LUTHER M. SWYGERT, **, Senior Circuit Judge for the United States Court of Appeals for the Seventh Circuit; and WALD, Circuit Judge

JUDGMENT

This cause came on to be heard on the record on appeal from the United States District Court for the District of Columbia and was

briefed and argued by counsel. The issue presented has been accorded full consideration by the court; it occasions no need for an opinion. See Local Rule 13(c).

The trial court dismissed appellant's motion for relief from judgment under Fed. R. Civ. P. 60 (b) on the basis of the official transcript of prior proceedings in which appellant voluntarily stipulated a dismissal of his action, and personally assured the trial judge that no other "agreements, understandings, promises or representati had been made to induce the dismissal. Memorandum Opinion at 52. While it might indeed have been preferable to afford appeallant a fuller hearing on his present allegations that the stipulated dismissal was in fact induced by collateral threats and promises, we cannot find that the trial court erred in refusing to do so, given appellant's prior recitals to the same judge in open court that no such treats or promises had been made. Affirmed.

Per Curiam
For the Court

/s/ George A. Fisher
George A. Fisher
Clerk

Bills of costs must be filed within 14 days after entry of judgment. The Court looks with disfavor upon motion to file bills of costs out of time.

*Chief Judge Robinson took no part in the consideration or disposition of this appeal.

**Sitting by designation pursuant to 28 U.S.C. §294 (d).

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 81-1728 September Term, 1981

Mohamed Habib and
Middle East Service, Appellants

Civil Action No. 78-00286

ARGUED: 6-4-82 v.

Raytheon Company and
Raytheon Service Company

BEFORE; Robinson, Chief Judge;
Swygert*, Senior Circuit Judge, United
States Court of Appeals for the Seventh
Circuit and Wald, Circuit Judge.

FILED: July 30, 1982

O R D E R

On Consideration of appellants' petition for rehearing, filed July 15, 1982, it is

ORDERED by the Court that the aforesaid petition is denied.

Per Curiam

FOR THE COURT:

GEORGE A. FISHER, Clerk

By: /s/ Robert Bonner
Robert A. Bonner,
Chief Deputy Clerk

**Sitting by designation pursuant to 28 U.S.C. §294 (d).

Chief Judge Robinson did not participate in this order.

CERTIFICATE OF SERVICE

I, Vance Hartke, attorney for Mohamed Habib and Middle East Services, a Division of Mundus, Inc., petitioner herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on October 27, 1982 I served a copy of the Petition for Writ of Certiorari on Raytheon Company and Raytheon Service Company, respondent herein, by mailing a copy in a duly addressed envelope, with first class postage prepaid, to Judah Best, Esquire and Loren Kieve, Esquire, attorney of record for respondent at Steptoe and Johnson, 1250 Connecticut Avenue, N. W., Washington, D. C. 20036.

Vance Hartke

Vance Hartke
HARTKE AND HARTKE
7637 Leesburg Pike
Falls Church,
Virginia 22043

CERTIFICATE OF SERVICE

I, Vance Hartke, attorney for Mohamed Habib and Middle East Services, a Division of Mundus, Inc., petitioner herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on October 27, 1982 I served a copy of the Petition for Writ of Certiorari to Jack Blum, Esquire and Ronald Plesser, Esquire, former counsel of record of petitioner, by mailing a copy in a duly addressed envelope, with first class postage prepaid, to Blum and Nash, Suite 408, 1015 Eighteenth Street, N. W., Washington, D. C. 20036,.

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